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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,570	10/26/2001	Tyler Tierney	27734/92540	4128

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

Office Action Summary

Application No.
10/039,570

Applicant(s)
Tierney et al.

Examiner
Vanaman

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3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2, 3 6) ☐ Other:

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Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

(a) It does not identify the mailing or post office address of each inventor. A mailing or post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing or post office address should include the ZIP Code designation. The mailing or post office address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76. Specifically, the post office addresses for Tyler Tierney, Kurt Tierney, Luc Heiligenstein and Nicolas Nanos have not been provided.

(b) Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c). Specifically, the declarations of Luc Heiligenstein and Nicolas Nanos include non-initialed alterations.

Further, the declarations executed by Tyler Tierney and Kurt Tierney are undated.

Inventorship

2. The cover sheet of the instant application refers to 6 inventors, while the declarations filed only refer to 5. It is unclear whether or not the further individual (Geoffrey Boyer) is an inventor of the material in the instant application.

Information Disclosure Statement

3. The information disclosure statement filed 4/26/02 (Paper No. 2) fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it

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to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

4. The disclosure is objected to because of the following informalities: on page 3, figures 5, 6, 7, 8, and 9 are not separately referred to in the Brief Description of the Drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 14, line 2, the recitation of a pair of fork members engaged with themselves is not entirely clear. In view of the recitation of claim 18, it appears as though this recitation should refer to an axle engaged with the fork members.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10, 15-17, 19, 20, 23, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimmell (US 4,071,256, cited by applicant). Kimmell teaches a skateboard comprising an elongated board (50), to which is attached a pair oppositely raked truck assemblies (note figures 2, 5), comprising a truck (52, 54) comprising a wheel support (60) pivotably associated with the board, an elastomeric spring (120) of substantially cylindrical configuration connected to the support, wheels (64, 66) rotatably mounted to the support, a base (56, 57)

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secured to the board, the spring engaging the wheel support (through 106, 126) and the base (through 128, 130 and 86, 88); the truck including a housing (134) and a lug shaft (90, 92, 94, 106) which engages the base and the housing, the engagement with the base being rigid when the lug is tightened, the housing allowed to pivot with respect to the shaft, the shaft defining a spline (e.g., 116), which extends outwardly and which engages with a keyway (e.g., 126) in the spring; the truck further comprising an outer hollow cylinder (78) which is associated with the housing, and has at least one spline (86, 88) wherein the spring further defines at least one keyway (128, 130) for receiving this outer spline.

8. Claims 1-8, 11-13 and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinchock (US 4,047,725, cited by applicant). Pinchock teaches a skateboard including an elongated board (74), a raked truck including a wheel support (26) pivotably associated with the board, a cylindrical elastomeric spring (59) connected to the support, wheels (12) mounted to the support, a base (27/36) for mounting to the board, the spring engaging the wheel support (through 60 and 58) and the base (through 64, 62, 43, 42, and 40), further including a housing (57) and a lug shaft (34), which engages both the base and housing, being rigidly associated with the base, when tightened, and pivotally associated with the housing; the spring being received within the housing (57, 58, 59, 60), further including an end cap (37, 38) which engages the shaft and retains the spring in the housing, and further including a retaining clip element (42, 43) which is releasably engaged with the cap.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimmell (cited above) and Murdock (US 1,056,357, cited by applicant). The reference of Kimmell is discussed in detail above and fails to teach the wheel support as including a pair of fork members with an axle engaged with the fork members. Murdock teaches a wheel mount for a skate board, including a wheel (10) mounted by an axle (not referenced), on a pair of fork members (9) which are pivotally mounted with respect to a base (6) which is in turn rigidly mounted to a board (1). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the through axle (68) mounted on the truck portion (60) as taught by Kimmell, with a wheel axle, mounted to a pair of fork members extending from a truck, as taught by Murdock, for the purpose of moving the axle further from the pivot axis of the truck, to enhance the turning action of the board, making it more responsive to small shifts in the rider's weight.

11. Claims 15-17 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinchock (cited above). The reference of Pinchock is discussed in detail above, and fails to explicitly teach the provision of two wheel assemblies, raked in opposing directions. The provision of a pair of wheel assemblies being opposingly raked, on a skateboard is very old and well known, and the examiner hereby takes Official Notice of such provision. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a pair of the assemblies taught by Pinchock, raked in opposite directions, for the purpose of providing an operable skateboard which may be easily steered.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goosmann (US 2,033,334), Balstad (US 2,466,070), Crone (US 2,920,899), Balstad (US 3,870,324), Hansen (US 4,251,087), Snyder et al. (US 4,311,319), and Reyes et al. (US 6,315,312 B1) teach skate and skateboard structures of pertinence.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)

703-872-9327 (Official After Final communications)

703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
February 13, 2003



2/13/03